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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/572,944	10/13/2006	Christophe Fringant	287782US0PCT	3153
22850 7590 03/04/2009 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER PEPTONE, MICHAEL F				
ART UNIT 1796		PAPER NUMBER		
NOTIFICATION DATE 03/04/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/572,944

Applicant(s)

FRINGANT ET AL.

Examiner

MICHAEL PEPITONE

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/19/08.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 12/19/08.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

The references lined through in the Information Disclosure Statement received on 12/19/08 were previously considered on the IDS filed 6/16/06.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13-15, 17, 21-30, and 33-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Padget *et al.* (EP 0185464).

Regarding claims 13-15, 17, 28-29: Padget *et al.* teaches a copolymer composition (pg. 1, ln. 1-5; pg. 7, ln. 1-11) comprising copolymer A (pg. 5, ln. 28-35; pg. 8, ln. 11-30) and copolymer B (pg. 6, ln. 7-11; pg. 10, ln. 11-25); wherein copolymer A comprises 27.2% vinylidene chloride, 70.8% n-butyl acrylate, and 2.0% acrylic acid (Table 1, for use in ex. 15), and has a molecular weight (M_p) of 114,898 (pg. 5, ln. 1-16); copolymer B comprises 59.4% vinylidene chloride, 5.1% n-butyl acrylate, 33.5 methyl methacrylate, and 2.0% acrylic acid (Table 3, for use in ex. 15) and has a molecular weight (M_p) of 19,171 (pg. 5, ln. 1-16).

Regarding claims 21: Padget *et al.* teaches blends of copolymers A and B in an aqueous dispersion (pg. 27, ln. 5-25)

Regarding claims 22-25: Padget *et al.* teaches a contact adhesive (pg. 1, ln. 1-16) is coated onto a polymer surface (pg. 4, ln. 12-21; pg. 21, ln. 21-29).

Regarding claims 26-27: Padget *et al.* teaches a contact adhesive (pg. 1, ln. 1-16) is coated onto a substrate (pg. 4, ln. 12-21; pg. 21, ln. 21-29) and is allowed to dry.

Regarding claim 30: Padget *et al.* teaches n-octyl methacrylate and 2-ethylhexyl methacrylate {substitute for methyl methacrylate} for (pg. 12, ln. 10-28; pg. 13, ln. 1-7).

Regarding claim 33-34: Padget *et al.* teaches acrylic acid; and 2-acrylamide-2-methylpropane sulphonic acid {substitute for acrylic acid} for (pg. 15, ln. 12-29).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Padgett *et al.* (EP 0185464) as applied to claim 13 above.

Regarding claim 16: Padgett *et al.* teaches a copolymer composition copolymer A comprises 27.2% vinylidene chloride, 70.8% n-butyl acrylate, and 2.0% acrylic acid (Table 1, for use in ex. 15), and has a molecular weight (M_p) of 114,898 (pg. 5, ln. 1-16).

The preferred embodiment does not disclose at least 50 wt% of vinylidene chloride. However, preferred compositions of Copolymer A can comprise 10 to 70 wt% of vinylidene chloride (8:11-13).

Claims 18-19 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Padgett *et al.* (EP 0185464) as applied to claim 13 above, in further view of Thames *et al.* (US 6,599,972).

Regarding claims 18-19 and 31: Padgett *et al.* teaches the basic claimed copolymer composition [as set forth above with respect to claim 13], wherein the copolymer B can include internally plasticizing comonomers (pg. 11, ln. 15-pg. 12, ln. 9).

Padgett *et al.* does not teach the copolymer B comprising a monomeric unit containing a perfluoroalkyl moiety. However, Thames *et al.* teaches a latex composition for contact adhesives (abstract) comprising an ethylenically unsaturated internal plasticizer containing a perfluoroalkyl moiety $\{R_8, R_9, R_{10} = C_nH_xF_y; n=1-10, x=y=0 \text{ to } 2n+1\}$ (4:19-49; 5:12-36). Padgett *et al.* and Thames *et al.* are analogous art because they are concerned with a similar technical difficulty, namely the preparation of internally plasticized latex based contact adhesives. At the time of invention a person of ordinary skill in the art would have found it

obvious to have combined internal plasticizer containing a perfluoroalkyl moiety, as taught by Thames *et al.* in the invention of Padget *et al.*, and would have been motivated to do so since Thames *et al.* suggests that such internal plasticizer containing a perfluoroalkyl moiety provide self plasticized compositions with no subsequent VOC emissions (4:29-36).

Claims 18, 20 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Padget *et al.* (EP 0185464) as applied to claim 13 above, in further view of Denk *et al.* (US 2,971,948).

Regarding claims 18, 20, and 35: Padget *et al.* teaches the basic claimed copolymer composition [as set forth above with respect to claim 13], wherein the copolymer B can include adhesion promoting functionalities {acid} (pg. 15, ln. 12-25).

Padget *et al.* does not teach the copolymer B comprising a monomeric unit containing a phosphonate group. However, Denk *et al.* teaches vinylidene chloride copolymers (1:16-17; 1:67-2:6) comprising vinyl phosphonic acids (1:57-70) as adhesion promoters (2:7-8). Padget *et al.* and Denk *et al.* are analogous art because they are concerned with a similar technical difficulty, namely the preparation of vinylidene chloride copolymers containing adhesion promoters. At the time of invention a person of ordinary skill in the art would have found it obvious to have combined vinyl phosphonic acids, as taught by Denk *et al.* in the invention of Padget *et al.*, and would have been motivated to do so since Denk *et al.* suggests that such vinyl phosphonic acids provide copolymers which adhere extremely well to metal surfaces (2:7-8).

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Padget *et al.* (EP 0185464) as applied to claim 13 above, in further view of Mazurek *et al.* (US 5,091,483).

Regarding claim 32: Padget *et al.* teaches the basic claimed copolymer composition [as set forth above with respect to claim 13], wherein the copolymer B can include adhesion promoting functionalities (pg. 15, ln. 12-25).

Padget *et al.* does not teach the copolymer B comprising a monomeric unit containing a dimethylsiloxane moiety. However, Mazurek *et al.* teaches ethylenically unsaturated silicone macromers {formula IX} for imparting increased tack and compliance (10:9-63; 1:67-2:6) in adhesive compositions. Padget *et al.* and Mazurek *et al.* are analogous art because they are concerned with a similar technical difficulty, namely the preparation of adhesives. At the time of invention a person of ordinary skill in the art would have found it obvious to have combined unsaturated silicone macromers {formula IX}, as taught by Mazurek *et al.* in the invention of Padget *et al.*, and would have been motivated to do so since Mazurek *et al.* suggests that such unsaturated silicone macromers {formula IX} provide adhesives with increased tack and compliance (10:9-19).

The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. See attached form PTO-892.

Response to Arguments

Applicant's arguments with respect to claims 13-27 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL PEPITONE whose telephone number is (571)270-3299. The examiner can normally be reached on M-F, 7:30-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Eashoo can be reached on 571-272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Eashoo/
Supervisory Patent Examiner, Art Unit 1796

MFP
26-February-09